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**TRANSMITTAL
FORM**

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Total Number of Pages in This Submission

3

Application Number

10/027,394

Filing Date

12/21/2001

First Named Inventor

Bruce G. Kania

Art Unit

3743

Examiner Name

Kim M. Lewis

Attorney Docket Number

ENCLOSURES (Check all that apply)

- ☐ Fee Transmittal Form
- ☐ Fee Attached
- ☐ Amendment/Reply
- ☐ After Final
- ☐ Affidavits/declaration(s)
- ☐ Extension of Time Request
- ☐ Express Abandonment Request
- ☐ Information Disclosure Statement
- ☐ Certified Copy of Priority Document(s)
- ☐ Response to Missing Parts/
Incomplete Application
- ☐ Response to Missing Parts
under 37 CFR 1.52 or 1.53

- ☐ Drawing(s)
- ☐ Licensing-related Papers
- ☐ Petition
- ☐ Petition to Convert to a
Provisional Application
- ☐ Power of Attorney, Revocation
Change of Correspondence Address
- ☐ Terminal Disclaimer
- ☐ Request for Refund
- ☐ CD, Number of CD(s) _____

- ☐ After Allowance communication
to Technology Center (TC)
- ☐ Appeal Communication to Board
of Appeals and Interferences
- ☐ Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)
- ☐ Proprietary Information
- ☐ Status Letter
- ☐ Other Enclosure(s) (please
Identify below):

Remarks

Provisional Election

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TECHNOLOGY CENTER R3700

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENTFirm
or
Individual name

Antoinette M. Tease, P.L.L.C.

Signature

Date

07/08/2004

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Signature

Date

07/08/2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/027,394
Filing Date: 12/21/2001
Applicant: Bruce G. Kania
Title: Treatment Devices Providing Targeted Antimicrobial Action
Examiner/GAU: Kim M. Lewis/3743

PROVISIONAL ELECTION

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The Honorable Commissioner for Patents
Washington, District of Columbia 20231

JUL 15 2004
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Dear Sir:

In response to the Official Action mailed June 14, 2004, Applicant provisionally elects, with traverse, Group I, Claims 1-27 for further reexamination on the merits in the present application.


Applicant respectfully traverses the restriction requirement because the PTO has not carried forward its burden of proof to establish distinctness. In particular, MPEP § 803 states:

If the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

The claims of the present invention would appear to be part of an overlapping search area.

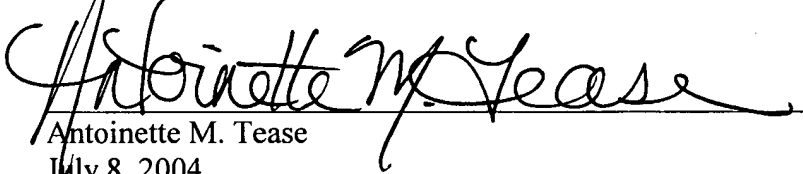
Accordingly, Applicant respectfully traverses the outstanding election requirement on the grounds that a search and examination of the entire application would not place a *serious* burden on the examiner.

Respectfully submitted,



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Antoinette M. Tease
July 8, 2004